

Applicant has considered Examiner's remarks and the art cited in the examiner's response. It is noted that two Examiner teleconferences were held. The first on October 14, 2009 and the second on October 15, 2009.

The Examiner's action is non-final and all of the pending claims, 13-18, have been rejected by the Examiner under 35 USC 102(b) as being anticipated by "The New Illustrated Encyclopedia of Billiards" by Mike Shamos. In discussions with the examiner it was confirmed that only the pages provided constitute the citation namely the cover page of the book, the copyright page of the book and page 212 having thereon definitions of the terms "score string" and "scoring".

In addition, examiner has reproduced within the body of the office action two small pictures which he has identified as "extrinsic evidence of a scoring string" and "another example of a scoring system for billiards". No specific source for this information has been provided.

Applicant respectfully traverses the Examiner's position that this reference anticipates the claims of the instant application. With respect, the claims of the instant application are directed to a method of using a device for assessing psychological state of an individual. In the Examiner's office action it is stated that "The score of any game [of billiards] will be indicative of a psychological state of an individual"; however, it is respectfully submitted that the score of a game such as billiards is indicative only of the score of the game indicating which player is in the lead or winning and which play is not in the lead (not winning). In the cited reference with respect to scoring there is no explicit reference or even any suggestion that the score of a game of billiards is indicative of an individual's state of mind such as the psychological state of an individual.

Billiards is a game played between two people and the game is about something entirely different from assessing a person's psychological state. The claims clearly state that the method of the instant application is for assessing psychological state and specific steps involving an individual assessing themselves with reference to a manual are specified. This is very different from scoring a game and is for a very different purpose. For

example, in Claim 13 it is stated "method of using a free standing or mountable apparatus for assessing psychological state" and in step e) it is clearly stated that when the individual experiences an event the individual then refers to a manual. It is therefore respectfully submitted that all the elements of the claims are not present in the cited reference nor are they present in a combination of the extrinsic evidence (for which no source is provided) together with the cited reference. Therefore it is respectfully submitted that the Shamos reference cited by the examiner does not anticipate the claims as examined and it is further submitted that the Shamos reference does not anticipate the claims as amended on this date and submitted with this response.

The claims of the instant application have been amended for greater clarity as described the following remarks.

The term psychological state as mentioned in the preamble of the claim has, by this amendment, been further modified by adding the words "arising from relationships".

In addition, in step b) the word "psychological" has been added, by this amendment, before the word "event". The words "arising from relationships" have been added after the word "experience". These amendments are made for greater clarity and to clearly include the "psychological state" assessment in the body of the independent claim (and not merely in the preamble).

In addition, at step h) the phrase "whereby upon repeating said steps said individual observes a change, or lack of change, on said scale by observing a location of said indicator in conjunction with said indicia" has been added to the end of that step. This amendment is for greater clarity, as discussed in the telephone interview of today's date, to clarify that the steps of the method relate to an assessment of psychological state and the interconnectedness between the manual, the device and the final determination of psychological state of the individual.

With respect to the instant application independent claim 13 specifies that the measurement device has a scale defining a range of values and a re-positionable indicator

to mark a position on that specific scale. For greater clarity, Claim 13 has been further amended to specify that there are indicia on the scale indicative of the psychological state which is being assessed. Support for this amendment to the claim is found in element 16 of the instant application as illustrated in Figures 1 and 2 of the instant application and also described, *inter alia*, in paragraph 0041 of the application. It is respectfully submitted that this amendment clarifies the nature of the psychological assessment and the interconnectedness between the manual and the device in achieving that assessment of an individual's psychological state.

Together with this response the Applicant Petitions for the requisite Extension of Time and Authorizes that the requisite extension of time fee to be taken from Deposit Account 502171 for a 3 month extension of time and Applicant claims small entity status. Aside from the Extension of time fees provided for on the attached Form PTO/SB/22 (07-09) (approved for use through 01/31/2012) entitled Petition for Extension of Time under 37 CFR 1.136(a), it is believed that no other fees are due at this time. Any deficiencies in payment of fees may be charged to deposit account No. 502171. It is respectfully requested that Examiner call the undersigned to further discuss this application as per our telephone interview of October 15, 2009.

Respectfully submitted,

Cynthia J. Ledgley
Ledgley Law

By Cynthia J. Ledgley
Cynthia J. Ledgley
Reg. No. 34533
Tel.: (416) 703-4004
Date: October 15, 2009

Attachment: Form PTO SB22 – Petition for Extension of Time and authorization for extension of time fee to be taken from Deposit Account 502171 for 3 months extension claiming small entity status in the amount of USD\$555.